

Docket No. 950.044US1/DEKM186

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of David McElroy *et al.*  
Serial No.: 09/801,261  
Filed: March 7, 2001  
For: Homologous Recombination-Mediated  
Transgene Alteration in Plants

Art Unit: 1638  
Examiner: David Fox

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JUN 18 2003  
GROUP 1600

AMENDMENT

Mail Stop AF  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Sir:

This Amendment and request for reconsideration of the rejection of claims to the Final Office Action mailed April 23, 2003 is timely filed before expiration of the 3 month shortened statutory period for response.

A. In the Claims:

Claims 52-65 remain in this application. Amendments to claims 52 and 53 are reflected in the listing of claims which begins on page 5 of this paper. Language in amended claim 52 more clearly describes "marker-free" in terms of a "marker-free fertile transgenic plant having all marker gene sequences removed from transgene insertions" and a "fertile transgenic plant in which all marker gene sequences are deleted."

Marker-free transgenic plants are supported throughout the specification; see in particular page 1, lines 13-15; page 2, lines 8-18; page 3, 16-19; page 4, lines 1 and 2; page 4, lines 8-18 and page 7, lines 17-28. Plants in which all marker genes are removed from the transgenic

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6.17.03  
DATE